

2013 DRAFTING REQUEST

Bill

Received: **10/8/2012** Received By: **mgallagh**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget 6-7597** By/Representing: **Ley**
May Contact: Drafter: **mgallagh**
Subject: **Econ. Development - misc.** Addl. Drafters:
Econ. Development - tax incentives Extra Copies: **RAC**

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**
fern.knepp@legis.wisconsin.gov

Pre Topic:

DOA:.....Ley, BB0152 -

Topic:

Eliminate enterprise zone tax credit 10 percent capital investment requirement

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mgallagh 12/21/2012	evinz 1/8/2013	phenry 10/17/2012	_____	srose 10/17/2012		State
/P2	mgallagh 1/23/2013	evinz 1/23/2013	rschluet 1/23/2013	_____	sbasford 1/9/2013		State
/P3				_____	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				_____	1/23/2013		

FE Sent For:

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/P2	mgallagh 1/9/2013	evinz 1/8/2013	jmurphy 1/9/2013	_____	sbasford 1/9/2013		State

FE Sent For:

1/3 ev 1/23/13
2313
<END>

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/P1	mgallagh 10/9/2012	evinz 10/17/2012	10/17/2012	_____	srose 10/17/2012		State

FE Sent For:

<END>

1p2 evv 1/7/13
1p2 evv 1/8/13
dm+pk 1/8/13
dm+gk 1/9/13

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/P1	mgallagh	1/pl eev 10/9/12	eev 10/17/12	10/17			
		PI 10/17 jld		ph			

FE Sent For:

<END>

Gallagher, Michael

From: Hanaman, Cathlene
Sent: Monday, October 08, 2012 8:57 AM
To: Gallagher, Michael; Knepp, Fern
Subject: FW: Statutory Language Drafting Request

From: Emily.Ley@wisconsin.gov [mailto:Emily.Ley@wisconsin.gov]
Sent: Friday, October 05, 2012 2:06 PM
To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA; Ley, Emily A - DOA; Thornton, Scott - DOA
Subject: Statutory Language Drafting Request

WEDC

Biennial Budget: 2013-15

DOA Tracking Code: BB0152

Topic: Modify the Enterprise Zone Tax Credit Program Investment Criterion

SBO Team: TLGED

SBO Analyst: Ley, Emily - DOA
Phone: 608-266-7597
E-mail: Emily.Ley@wisconsin.gov

Agency Acronym: WEDC

Agency Number: 192

Priority: Medium

Intent: Remove the provision under the Enterprise Zone Program that requires a business seeking enterprise zone tax credits to make a capital investment equal to at least 10 percent of its previous year's gross revenue attributable to activities in the state.

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov



In: 10/9
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0231/P1

MPG:...

Carv's JLD

DOA:.....Ley, BB0152 - Eliminate enterprize^s zone tax credit 10 percent capital investment requirement

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

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AN ACT^{don't gen} relating to: the budget.✓

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
ECONOMIC DEVELOPMENT

Under current law, WEDC administers an enterprise zone tax credit program. Under that program, WEDC may designate certain areas within Wisconsin as enterprise zones and may certify a business to receive income and franchise tax credits if the business expands operations in an enterprise zone or satisfies one or more of a number of other requirements to qualify for enterprise zone tax credits.

With respect to a business expansion, WEDC may certify a business for tax credits that expands its operations in an enterprise zone and makes a capital investment in property located in the enterprise zone if the value of that capital investment is equal to at least 10 percent of the business's gross revenues in the preceding tax year attributable to business conducted in Wisconsin and the business satisfies other specific requirements.

This bill eliminates the requirement that the value of a business's capital investment in property located in an enterprise zone must equal at least 10 percent of the business's gross revenues in the preceding tax year attributable to business conducted in Wisconsin in order for the business to qualify for enterprise zone tax credits based on that capital investment.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. 238.399 (5) (c) 2. a. of the statutes is repealed.**

2 (END)

Insert 2-2

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0231/Plins
MPG:.....

1 INSERT 2-2

2 **SECTION 1.** 238.399^x (6) (d) of the statutes is amended to read:

3 238.399 (6) (d) The corporation may require a business to repay any tax
4 benefits the business claims for a year in which the business failed to maintain
5 employment ~~or capital investment~~ levels or a capital investment required by an
6 agreement under sub. (5) (c).

History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

7 **END INSERT 2-2**



IN: 12-21
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0231/P1

MPG:eev&jdph

stays

DOA:.....Ley, BB0152 - Eliminate enterprise zone tax credit 10 percent capital investment requirement

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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D-Note

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1

AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Under current law, WEDC administers an enterprise zone tax credit program. Under that program, WEDC may designate certain areas within Wisconsin as enterprise zones and may certify a business to receive income and franchise tax credits if the business expands operations in an enterprise zone under certain conditions or satisfies one or more of a number of other requirements to qualify for enterprise zone tax credits.

With respect to a business expansion, WEDC may certify a business for tax credits that expands its operations in an enterprise zone and makes a capital investment in property located in the enterprise zone if the value of that capital investment is equal to at least 10 percent of the business's gross revenues in the preceding tax year attributable to business conducted in Wisconsin and the business satisfies other specific requirements.

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has defined under policies and procedures developed by WEDC

The bill replaces that requirement with a requirement that the business make a significant capital investment in property located in the enterprise zone.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 238.399 (5) (c) 2. a. of the statutes is repealed.

2 SECTION 2. 238.399 (6) (d) of the statutes is amended to read:

3 238.399 (6) (d) The corporation may require a business to repay any tax
4 benefits the business claims for a year in which the business failed to maintain
5 employment ~~or capital investment~~ levels or a capital investment required by an
6 agreement under sub. (5) (c).

(END)

significant

in property

Insert 2-6

Gallagher, Michael

From: Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>
Sent: Tuesday, December 18, 2012 4:01 PM
To: Gallagher, Michael
Subject: BB0152 remove 10% investment requirement

Mike,

Under BB0152, Eliminate enterprise zone tax credit 10 percent capital investment requirement, will you add to s. 238.399(5)(c)2, that WEDC requires a "significant" capital investment? Significant capital investments are defined by WEDC policy, see ss. 238.302(2) and 238.306(2)(b). Please let me know if you have any questions.

Thank you,
Emily

Emily Ley
Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
(608)-266-7597
emily.ley@wisconsin.gov

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0231/P2ins
MPG:eev&jld:ph

1 INSERT 2-1

2 **SECTION 1.** 238.399 (5) (c) 2. (intro.) of the statutes is amended to read:

3 238.399 (5) (c) 2. (intro.) The business makes a significant capital investment
4 in property located in the enterprise zone and all of the following apply:

5 History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

5 **END INSERT 2-1**

6 INSERT 2-6

7 **SECTION 2.** 238.399 (6) (g) (intro.) of the statutes is amended to read:

8 238.399 (6) (g) (intro.) The corporation shall adopt rules policies and
9 procedures specifying all of the following:

10 History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

10 **SECTION 3.** 238.399 (6) (g) ~~3~~ of the statutes is amended to read:

11 238.399 (6) (g) ~~3~~. The definition of "significant capital expenditure" for
12 purposes of sub. ~~subs. (5) and (5m).~~ *plain text, no strike*

13 History: 2005 a. 361; 2007 a. 20, 97, 100; 2009 a. 11, 28, 266, 267; 2011 a. 26; 2011 a. 32 s. 3437; Stats. 2011 s. 238.399; s. 13.92 (1) (bm) 2., (2) (i).

13 **SECTION 9350. Initial applicability; Wisconsin Economic Development**

14 **Corporation.**

15 (1) CHANGES TO ENTERPRISE ZONE CERTIFICATIONS. The treatments of section
16 238.399 (5) (c) 2. of the statutes and section 238.399 (6) (d) and (g) ~~3~~ of the statutes
17 first ~~apply~~ *applies* to a certification the Wisconsin Economic Development Corporation
18 issues under section 238.399 (5) *of the statutes* on the effective date of this subsection.

19 **END INSERT 2-6**

The definition of

"Significant capital investment ~~in property~~" for purposes
of sub. (5)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0231/P2dn
MPG:eev&jld:ph
u

(date)

Emily ☺

Please review this draft carefully to ensure that it is consistent with the intent.

In this draft, I changed the reference to "rules" under s. 238.399 (6) (g), ^{Wis.} Stats., to "policies and procedures." The references to "rules" in ch. 238 were inadvertently carried over in 2011 Act 32 when many economic development programs from the former Department of Commerce were transferred to WEDC. WEDC is not an agency and does not promulgate rules, and the references to "rules" in ch. 238 could create confusion concerning what WEDC is required to do or the legal status of its "rules."

Please contact me if you would like to discuss a potential budget draft to correct all of the misleading references to the adoption of "rules" in ch. 238. It would be a good idea, if possible, to correct all of those erroneous references at once, rather than leaving it to be done on an ad hoc basis, when or if specific provisions are treated in any given bill.

Also, I included an initial applicability provision in this redraft, which first applies the substantive changes in the draft to a certification WEDC issues under s. 238.399 (5), stats., on the effective date of the budget act. Is that okay?

Please let me know if you have any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0231/P2

MPG:eev:jm

DOA:.....Ley, BB0152 - Eliminate enterprise zone tax credit 10 percent capital investment requirement

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT

Under current law, WEDC administers an enterprise zone tax credit program. Under that program, WEDC may designate certain areas within Wisconsin as enterprise zones, and may certify a business to receive income and franchise tax credits if the business expands operations in an enterprise zone under certain conditions or satisfies one or more of a number of other requirements to qualify for enterprise zone tax credits.

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This bill eliminates the requirement that the value of a business's capital investment in property located in an enterprise zone must equal at least 10 percent of the business's gross revenues in the preceding tax year attributable to business conducted in Wisconsin in order for the business to qualify for enterprise zone tax

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credits based on that capital investment. The bill replaces that requirement with a requirement that the business make a significant capital investment, as defined under policies and procedures developed by WEDC, in property located in the enterprise zone.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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2 238.399 (5) (c) 2. (intro.) The business makes a significant capital investment
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4 **SECTION 2.** 238.399 (5) (c) 2. a. of the statutes is repealed.

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6 238.399 (6) (d) The corporation may require a business to repay any tax
7 benefits the business claims for a year in which the business failed to maintain
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9 property required by an agreement under sub. (5) (c).

10 **SECTION 4.** 238.399 (6) (g) (intro.) of the statutes is amended to read:

11 238.399 (6) (g) (intro.) The corporation shall adopt ~~rules~~ policies and
12 procedures specifying all of the following:

13 **SECTION 5.** 238.399 (6) (g) 2m. of the statutes is created to read:

14 238.399 (6) (g) 2m. The definition of “significant capital investment” for
15 purposes of sub. (5).

16 **SECTION 9350. Initial applicability; Wisconsin Economic Development**
17 **Corporation.**

18 (1) CHANGES TO ENTERPRISE ZONE CERTIFICATIONS. The treatment of section
19 238.399 (5) (c) 2. and (6) (d) of the statutes first applies to a certification the Wisconsin

3 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0231/P2dn
MPG:eev:jm

January 8, 2013

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Legislative Attorney
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Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>
Sent: Tuesday, January 22, 2013 3:35 PM
To: Gallagher, Michael
Subject: Final modifications

Hi Mike,

I'm sorry to harass you with so many emails today. I'm pretty confident (or at least hopeful) that these are the last two changes I'll need for WEDC's draft requests.

0231/P2, Eliminate enterprise zone tax credit 10 percent capital investment requirement— please change the effective date to taxable years beginning on January 1, 2013.

0232/P1, Eliminate enterprise zone tax credit original manufacturer requirement— please change the effective date to taxable years beginning on January 1, 2013.

Thank you Mike,

Emily Ley
Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
(608)-266-7597
emily.ley@wisconsin.gov



In: 1/23/2013
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0231/P2

MPG:eev:jm

Stays

3
P3

DOA:.....Ley, BB0152 - Eliminate enterprise zone tax credit 10 percent capital investment requirement

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1

AN ACT ^{don't gen} relating to: the budget.

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ECONOMIC DEVELOPMENT

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This bill eliminates the requirement that the value of a business's capital investment in property located in an enterprise zone must equal at least 10 percent of the business's gross revenues in the preceding tax year attributable to business conducted in Wisconsin in order for the business to qualify for enterprise zone tax credits based on that capital investment. The bill replaces that requirement with a requirement that the business make a significant capital investment, as defined under policies and procedures developed by WEDC, in property located in the enterprise zone.

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16 **SECTION 9350. Initial applicability; Wisconsin Economic Development**
17 **Corporation.**

18 (1) CHANGES TO ENTERPRISE ZONE CERTIFICATIONS. The treatment of section
19 238.399 (5) (c) 2. and (6) (d) of the statutes first applies to a certification the Wisconsin

taxable years beginning on January 1, 2013

1 Economic Development Corporation issues under section 238.399 (5) of the statutes
2 on the effective date of this subsection.

3 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0231/P3
MPG:eev:rs

DOA:.....Ley, BB0152 – Eliminate enterprise zone tax credit 10 percent capital investment requirement

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SECTION 3. 238.399 (6) (d) of the statutes is amended to read:

238.399 (6) (d) The corporation may require a business to repay any tax benefits the business claims for a year in which the business failed to maintain employment ~~or capital investment levels~~ or a significant capital investment in property required by an agreement under sub. (5) (c).

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procedures specifying all of the following:

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238.399 (6) (g) 2m. The definition of “significant capital investment” for purposes of sub. (5).

SECTION 9350. Initial applicability; Wisconsin Economic Development Corporation.

(1) CHANGES TO ENTERPRISE ZONE CERTIFICATIONS. The treatment of section 238.399 (5) (c) 2. and (6) (d) of the statutes first applies to taxable years beginning on January 1, 2013.

(END)